

1 JOHN A. DICICCO  
2 Principal Deputy Assistant Attorney General  
3 U.S. Department of Justice, Tax Division  
4

5 ADAM D. STRAIT  
6 Trial Attorney, Tax Division  
7 U.S. Department of Justice  
8 P.O. Box 683  
9 Ben Franklin Station  
10 Washington, D.C. 20044-0683  
11 adam.d.strait@usdoj.gov  
12 Telephone: (202) 307-2135  
13 Facsimile: (202) 307-0054  
14

15 MICHAEL C. ORMSBY  
16 United States Attorney, Eastern District of Washington  
17 *Of Counsel*  
18

19 Attorneys for the United States of America  
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21 IN THE UNITED STATES DISTRICT COURT  
22  
23 FOR THE EASTERN DISTRICT OF WASHINGTON  
24

25 ACTION RECYCLING, INC.,  
26

27 Petitioner,  
28

29 v.  
30

31 UNITED STATES OF  
32 AMERICA,  
33

34 Respondent.  
35  
36

Civil No. 2:11-cv-457-JLQ

DECLARATION OF REVENUE  
AGENT HEATHER L. BLAIR  
IN SUPPORT OF UNITED  
STATES' MOTION TO DISMISS  
OR DENY PETITION TO  
QUASH

1 I declare the following pursuant to 28 U.S.C. § 1746:

2 1. My name is Heather L. Blair. I am a duly commissioned  
3 Revenue Agent in the Small Business/Self-Employed branch of the  
4 Internal Revenue Service. My post of duty is in Spokane, Washington.

5 2. At all times relevant to this Declaration I was acting in my  
6 capacity as a Revenue Agent. As a Revenue Agent, and with the joint  
7 signature of my manager, I am authorized to issue administrative  
8 summonses pursuant to 26 U.S.C. § 7602, 26 C.F.R. § 301.7602-1, and  
9 Internal Revenue Service Delegation Order No. 25-1.

10 3. In approximately August 2011, I was assigned to examine the  
11 federal income tax returns of Action Recycling, Inc., for its fiscal years  
12 ending March 31, 2009 ("FYE 2009"), and March 31, 2010 ("FYE 2010"),  
13 in order to determine the correct amount of federal income tax liabilities  
14 it may owe. I am not the first Revenue Agent to be assigned to the  
15 examination. The previous Revenue Agent, Derik Hudson, is no longer  
16 employed by the Internal Revenue Service. Revenue Agent Hudson  
17 primarily worked on the examination for FYE 2009.

18 4. Charles Hammer, the attorney for Action Recycling, and I  
19 arranged an appointment for November 9, 2011, at which Mr. Hammer

1 was to make available Action Recycling's banking records for FYE 2009  
2 for my review. I told Mr. Hammer that I would try to complete my  
3 review of the FYE 2009 documents by November 10. At the  
4 appointment on November 9, however, Mr. Hammer stated that he  
5 thought that the IRS had already had enough time to review the FYE  
6 2009 documents and that he would no longer make them available. He  
7 agreed to produce documents for FYE 2010 at an appointment we set  
8 for December 1 and 2, 2011.

9 5. An important part of the examination for both FYE 2009 and  
10 FYE 2010 is verifying Action Recycling's income. Bank records, such as  
11 bank statements and deposit slips, assist in determining not just the  
12 amount of money that goes into a taxpayer's bank account, but whether  
13 the deposited funds are taxable income. Verifying the amount and  
14 nature of Action Recycling's expenditures is also important to  
15 determining what deductions Action Recycling is entitled to claim.  
16 Bank records, such as canceled checks, assist in determining whether  
17 the expenses were deductible. Although Revenue Agent Hudson  
18 worked on the examination for FYE 2009 and reviewed Action  
19 Recycling's copies of the bank records, he did not make copies of the

1 records for the IRS's files. I did not have an opportunity to review  
2 Action Recycling's versions of the bank records myself.

3 6. On November 10, 2011, in furtherance of my examination of the  
4 return for FYE 2009, I issued IRS administrative summonses to Inland  
5 Northwest Bank and Washington Trust Bank. Each summons directed  
6 the receiving bank to produce for examination certain bank records of  
7 Action Recycling. I withdrew those summonses on November 28, 2011,  
8 in order to narrow the information that the summonses were  
9 requesting. True and complete copies of the letters I sent withdrawing  
10 the November 10 summonses are attached to this Declaration as  
11 **Exhibit A.** On November 28, with the letter withdrawing the  
12 November 10 summons, I returned to the banks unopened any records I  
13 received from them pursuant to the summonses.

14 7. I later received a letter dated November 15, 2011, from Mr.  
15 Hammer. A true and complete copy of the letter is attached to this  
16 Declaration as **Exhibit B.**

17 8. On November 28, 2011, in furtherance of my examination, I also  
18 issued two new IRS administrative summonses. One was to Inland  
19 Northwest Bank and the other was to Washington Trust Bank. Each

1 summons directed the receiving bank to produce certain bank records of  
2 Action Recycling by December 28, 2011, as described in the attachment  
3 to the summons. A true and complete copy of the November 28  
4 summons to Inland Northwest Bank is attached as **Exhibit C**. A true  
5 and complete copy of the November 28 summons to Washington Trust  
6 Bank is attached as **Exhibit D**. The November 28 summonses only  
7 sought records pertaining to Action Recycling's FYE 2009. Action  
8 Recycling's taxpayer identification number has been redacted from  
9 Exhibits C and D.

10 9. On November 29, 2011, I received a letter from Mr. Hammer  
11 indicating that he would no longer cooperate with the examination and  
12 canceling the appointment we had set for December 1 and 2, 2011. As a  
13 result, I was unable to examine Action Recycling's version of its banking  
14 records for FYE 2010. A true and complete copy of the letter is attached  
15 as **Exhibit E**.

16 10. On November 30, 2011, in furtherance of my examination and as  
17 a result of Mr. Hammer's letter, I issued two additional IRS  
18 administrative summonses. These summonses pertained to Action  
19 Recycling's FYE 2010. Like the November 28 summonses, one was to

1 Inland Northwest Bank and the other was to Washington Trust Bank.

2 Each summons directed the receiving bank to produce certain bank  
3 records of Action Recycling by December 30, 2011, as described in the  
4 attachment to the summons. A true and complete copy of the November  
5 30 summons to Inland Northwest Bank is attached as **Exhibit F**. A  
6 true and complete copy of the November 30 summons to Washington  
7 Trust Bank is attached as **Exhibit G**.

8 11. On or about December 15, 2011, Action Recycling filed a Petition  
9 to Quash the November 28 summonses, Exhibits C and D to this  
10 Declaration. The Petition did not address the November 30  
11 summonses, Exhibits F and G.

12 12. As the Petition to Quash states, due to a scrivener's error, the  
13 November 28 summonses (Exhibits C and D) sought information  
14 pertaining to "Action Recycle" rather than "Action Recycling, Inc." On  
15 December 19, 2011, I withdrew the November 28 summonses due to the  
16 scrivener's error. True and complete copies of the letters to each bank  
17 withdrawing the November 28 summonses are attached to this  
18 Declaration as **Exhibit H**. The November 30 summonses (Exhibits F  
19 and G) contained the same error.

1        13. On December 19, 2011, in furtherance of my examination, I  
2 issued two additional IRS administrative summonses. These  
3 summonses corrected the scrivener's error and sought documents  
4 pertaining to both FYE 2009 and FYE 2010. One was to Inland  
5 Northwest Bank and the other was to Washington Trust Bank. Each  
6 summons directed the receiving bank to produce certain bank records of  
7 Action Recycling by January 13, 2012, as described in the attachment to  
8 the summons. A true and complete copy of the December 19 summons  
9 to Inland Northwest Bank is attached as **Exhibit I**. A true and  
10 complete copy of the December 19 summons to Washington Trust Bank  
11 is attached as **Exhibit J**.

12        14. In accordance with 26 U.S.C. § 7603, I served an attested copy of  
13 each of the summonses attached to this Declaration on Action Recycling  
14 by certified mail. A true and complete copy of the certificate of service  
15 is included as part of each of the summonses attached to this  
16 Declaration.

17        15. The IRS does not possess any records from Inland Northwest  
18 Bank or Washington Trust Bank concerning Action Recycling's FYE  
19 2009 or FYE 2010. The IRS received some records in response to the

1 summonses described in this Declaration, but those records were  
2 returned to the banks unopened. Although it previously had access to  
3 certain of Action Recycling's records for FYE 2009, the IRS did not  
4 retain copies of those records. To my knowledge, the IRS has not had  
5 substantial access to Action Recycling's banking records for FYE 2010,  
6 and does not have copies of those records.

7 16. The banking records sought by the summonses may be relevant  
8 to the examination because they may demonstrate the date, amount,  
9 and source of deposits made into Action Recycling's bank accounts for  
10 both FYE 2009 and FYE 2010. In turn, that information is relevant to  
11 what Action Recycling's income was for those years. The bank records  
12 may also be relevant because they demonstrate the date, amount, and  
13 nature of expenditures made from those bank accounts during Action  
14 Recycling's FYE 2009 and FYE 2010. That information is relevant to  
15 what deductions Action Recycling was entitled to claim for those years.

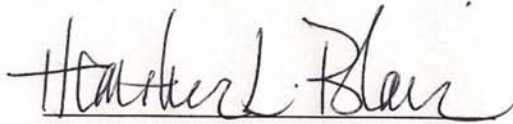
16 17. Although the Petition to Quash does not pertain to any of the  
17 summonses issued for FYE 2010, I have not reviewed any information I  
18 received from the banks for either FYE 2009 or FYE 2010.

1 18. No Justice Department referral, as defined by 26 U.S.C.  
2 § 7602(d)(2), is in effect with respect to Action Recycling for the years  
3 under examination.

4 19. All administrative steps required by the Internal Revenue Code  
5 for the issuance of the summons have been followed.  
6

7 I declare under penalty of perjury that, to the best of my  
8 knowledge, the foregoing is true and correct.  
9

10 Dated this 26 day of January, 2012.

11 

12 HEATHER L. BLAIR

13 Revenue Agent, Internal Revenue Service  
14 Spokane, Washington  
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